IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 7TH DECEMBER 2006 / 16TH AGRAHAYANA 1928

Crl.MC.No. 3987 of 2006()

CC.208/2006 of CHIEF JUDICIAL MAGISTRATE, KASARAGOD

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PETITIONER: ACCUSED:

M.A. NIZAMUDHEEN @ NISSAR,
AGED 22 YEARS, S/O. ABDULLA TIMBER,
SUHANA MANZIL, MANNUMKUZHI, KODIBAYAL VILLAGE,
KASARGOD DISTRICT.

BY ADV. SRI.M.SASINDRAN
SRI.K.P.HARISH

RESPONDENTS: COMPLAINANT;

STATE-REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.A.AKBAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 07/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3987 of 2006

Dated this the 7th day of December 2006

O R D E R

The petitioner is the third accused in a prosecution interalia under Section 324 read with 149 I.P.C. The investigation is complete. Charge sheet has been filed by the police. Cognizance has been taken by the learned Magistrate. The petitioner has come to this court with this petition that the powers under Section 482 Cr.P.C may be invoked to quash the proceedings against him.

2. What is the reason? The learned counsel for the petitioner submits that the allegations raised against him are all false. Truth or falsity of the allegation is not a matter which this court can aspire to consider and resolve at this stage under Section 482 Cr.P.C. The learned counsel for the petitioner then contends that he has also suffered injuries on the same day and that this case is a false case foisted against the petitioner as retaliation of the earlier case registered against the prosecution witnesses in this case. Since there is political rivalry between the two groups, totally false and vexatious allegations are being raised.

3. On this aspect also, there is no specific or particular evidence. Though at the bar it is submitted that at the time when the

incident in this case is alleged to have taken place, that is 7.15 p.m on 28/09/2005, the petitioner had already suffered an injury in an earlier incident which took place at 6 p.m and could not have indulged in any overt acts as alleged. There is no specific data made available to the court to ascertain what time the petitioner was admitted to the hospital after the alleged earlier incident. There is also no data to reveal the nature of the injuries which the petitioner had suffered.

4. I do not in these circumstances find any compelling reasons to justify the invocation of the powers under Section 482 Cr.P.C. The challenge raised in this Criminal Miscellaneous Case must, in these circumstances fail.

5. This Criminal Miscellaneous Case is accordingly dismissed. I may however hasten to observe that the dismissal of this Criminal Miscellaneous Case will not in any way fetter the rights of the petitioner to raise all necessary, appropriate and relevant contentions before the learned Magistrate in the course of the trial.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006